

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-398758-D1 AND ALL
OTHER SEAMAN'S DOCUMENTS

Issued to: ALOYSIUS E. MOZIER

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1635

ALOYSIUS E. MOZIER

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 2 March 1966, an Examiner of the United States Coast Guard at Long Beach, California revoked Appellant's seaman's documents upon finding him guilty of misconduct and incompetence. The specifications found proved allege that while the holder of a duly issued license and Merchant Mariner's document, Appellant, at the port of Los Angeles, California, on or about 5 October 1964, made a false statement under oath; that while serving as an second assistant engineer on board the United States SS OCEANIC SPRAY, under authority of the license above described, on or about 27 April through 30 May 1965, Appellant was incompetent to perform the duties of a licensed engineer; and that Appellant is now physically unfit for duty due to a heart ailment.

At the hearing Appellant was represented by counsel. Appellant entered a plea of not guilty to the charge and each specification.

At the end of the hearing, the Examiner rendered an oral decision in which he concluded that the charge and specifications had been proved. The Examiner then served a written order on Appellant revoking all documents issued to him.

The entire decision and order as served on 16 March 1966. Appeal was timely filed on 25 March 1967.

FINDINGS OF FACT

While the holder of a duly license and Merchant Mariner's document Appellant on October 5, 1964, executed and filed an Application for Renewal of license (from CG-3479) at the Marine Inspection Office in Wilmington, California, in which he stated under oath that he had never been convicted by any court for other than minor traffic violations since the issuance of his present grade of license. In fact, however, Appellant had been convicted in 1947 by a Federal District Court for several violations of Title 18 United States Code §§76 and 101 (felonies), and has served eighteen months in a federal penitentiary. Having failed to disclose this information, Appellant was given a renewal of his license.

From 24 April to 14 July 1965, as well as other times, Appellant was serving as an assistant engineer on board the United States SS OCEANIC SPRAY and acting under authority of his license while the ship was on a foreign voyage.

On his first day aboard the vessel Appellant was ordered to sound fuel tanks and to accomplish this as soon as possible. Appellant was unable to perform this task after a full day's work.

Appellant was directed to slow down the feed pump, and was later found in the machine shop looking for this pump. On Appellant's first watch upon leaving port, he was directed by the chief engineer to conduct chemical tests on the boilers and displayed a complete lack of knowledge of the proper method of performing the job. While Appellant was in charge of the watch, there was a plant failure and upon reaching the engine room, the chief engineer noted that the generator had gone off the line leaving the ship in total darkness. Appellant had failed to reduce the speed of the ship, had failed to take steam off the main engine and had taken no steps to start the feed pump to supply the boiler so that by the time the chief engineer arrived in the engine room, the plant was beyond saving. Appellant had exhausted the boilers into the condensers through the engines and the only solution lay in restoring the steam on the boilers by the use of the emergency generator running the fuel pump. During the time of restoring the plant, Appellant seemed completely unaware of what was transpiring, and was of no assistance whatever. After this incident, he was relieved by the chief engineer from watch standing duties and was placed on day watch during which time he was assigned to uncomplicated jobs which were normally performed by unlicensed personnel. He was also demoted to third assistant engineer. While so assigned, he was ordered to repack the upper casing gland in the bilge pump. Appellant was unable to locate the bilge pump and when it was pointed out to him by the chief engineer, was unable to repack the upper casing gland. Appellant was under the impression that he was, in fact, engaged in packing the feed pump and requested that the oilers be ordered to pump the bilges which was patently impossible since he had stripped the bilge pump. Additionally, he indicated a complete lack of knowledge of how to start the evaporators. Appellant was then assigned less and less complicated jobs, but at no time throughout the voyage was he able to perform even the simplest tasks in the engine room. For example, having been assigned to inventory the pipe fittings in the engine storeroom, he displayed a complete lack of knowledge of the method of measuring the size of pipes and fittings, and further indicated that he lacked the knowledge as to the method of blowing the boiler tubes.

Appellant has been found permanently unfit for duty due to arteriosclerotic heart disease by a Public Health Service doctor at San Pedro, California.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the basis for revocation be solely on the grounds of physical unfitness for duty.

APPEARANCE: James H. Ackerman, Esquire, of Long Beach, California.

OPINION

The misconduct specification was proved by documentary evidence indicating that Appellant had been convicted of several felonies in 1947, yet had not disclosed this material information when applying for a renewal of his license, as acquired by the Coast Guard.

The charge of incompetence was proved by the testimony of the chief engineer aboard the SS OCEANIC SPRAY, who cited numerous incidents showing Appellant is entirely incapable of performing even the simplest jobs required of a licensed engineer.

There was also substantial evidence presented at the hearing, as well as certain addenda to Appellant's brief on appeal, that Appellant is suffering from a heart ailment.

Appellant requests that we accept only the latter finding: that is, that the sole basis for revocation of Appellant's documents be indicated as unfitness due to physical disability.

It is very clear from the record that Appellant is obviously unfit to ever again serve on a merchant vessel of the United States. The Coast Guard's statutory duty of promoting the safety of life and property at sea would be seriously breached if this were allowed to happen. To ensure this, the order of the Examiner, and the grounds therefore, must be affirmed.

ORDER

The order of the Examiner dated at Long Beach, California on 2 March 1966 is AFFIRMED.

W. J. Smith
Admiral, United States Coast Guard
Commandant

Signed at Washington, D.C., this 5th day of June 1967.

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